

STATE OF MICHIGAN
COURT OF APPEALS

EMILY SKOWRONSKI, as Next Friend of
BRODERICK SKOWRONSKI, a Minor, and
THOMAS SKOWRONSKI,

UNPUBLISHED
April 21, 1998

Plaintiffs-Appellants,

v

LAURA J. DANZ, M.D. and MUNSON MEDICAL
CENTER,

No. 199022
Grand Traverse Circuit Court
LC No. 96-014639 NH

Defendants-Appellees.

Before: Neff, P.J., and White and D. A. Teeple*, JJ.

MEMORANDUM.

Plaintiffs appeal by right summary disposition, without prejudice, in this medical malpractice action based on commencement of suit prior to expiration of the statutory notice period prescribed by MCL 600.2912b(1); MSA 27A.2912(2)(1). We affirm. The motion to expedite, previously held in abeyance, is granted. This case is being decided without oral argument pursuant to MCR 7.214(E).

Whatever the motive underlying plaintiffs' failure to comply with the statutory pre-suit notice requirement, dismissal without prejudice is the appropriate action by the circuit court. *Neal v Oakwood Hospital Corp*, 226 Mich App 701, 714-716; ___ NW2d ___ (1997); *Morrison v Dickinson*, 217 Mich App 308, 319; 551 NW2d 449 (1996). Additionally, plaintiffs' equal protection, US Const, Am XIV, §1; Const 1963, art 1, § 2, due process, *id.*, and separation of powers, Const 1963, art 3, § 2 challenges to the constitutionality of the statute are without merit for the reasons adduced in *Neal, supra*.

Affirmed.

* Circuit judge, sitting on the Court of Appeals by assignment.

/s/ Janet T. Neff
/s/ Helene N. White
/s/ Donald A. Teeple